

EXHIBIT A

[PUBLIC VERSION]

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**IN ACCORDANCE WITH A PROTECTIVE ORDER, THE ENCLOSURE(S)
SHALL BE TREATED AS CONFIDENTIAL AND SHALL NOT BE SHOWN TO
ANY PERSON OTHER THAN THOSE PERSONS DESIGNATED IN
PARAGRAPH 8.2 OF THE PROTECTIVE ORDER.**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

CUSTODIA BANK, INC., :
:
Plaintiff, :
:
vs. : Case No.:
:
1:22-cv-00125-SWS
FEDERAL RESERVE BOARD OF :
GOVERNORS, :
:
AND :
:
FEDERAL RESERVE BANK OF :
KANSAS CITY, :
:
Defendants. :

"CONFIDENTIAL" DEPOSITION OF KATIE S. COX

Volume 1 of 2

DATE: December 19, 2023
TIME: 8:38 a.m. to 4:15 p.m.
LOCATION: King & Spalding, LLP
1700 Pennsylvania Ave, NW
Suite 900
Washington, DC 20006

REPORTED BY: Felicia A. Newland, CSR

Veritext Legal Solutions
1250 Eye Street, N.W., Suite 350
Washington, D.C. 20005

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1 A I don't recall there being one
2 denied. There could have been one where I didn't
3 happen to be on the team.

4 Q Okay. Great.

5 Okay. So any other positions you
6 held while you were in Dallas?

7 How long were you in Dallas actually?

8 A So I was -- yeah, so I was in Dallas
9 until, I want to say, 1991.

10 Q Okay. So you were in Dallas for
11 quite a while?

12 A Yeah, I was in Dallas for almost six
13 years.

14 Q Okay. Great.

15 So you started as a financial analyst
16 in Mergers and Acquisitions. You moved over to the
17 bank examiner function, I think you said late '80s,
18 early '90s?

19 A Well, I moved in January '88.

20 Q Okay. Great.

21 And then is -- did you stay in that
22 function thereafter or did you --

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1 A So -- so then I moved to Pittsburgh.
2 And I moved -- worked for the Cleveland Reserve
3 Bank. And I think I was there from January 1991 to
4 January 1992, same thing, doing -- being a bank
5 examiner.

6 Q Okay. Great.
7 And then so you were in -- and after
8 Pittsburgh?

9 A After Pittsburgh, I moved to the
10 Richmond Reserve Bank. And I was there in '92 and
11 '93 as an examiner.

12 Q Yep.

13 A And then I moved to the Kansas City
14 Reserve Bank. And I was there from '93 to '95.
15 And the whole time I'm -- I'm a bank examiner.

16 Q Okay. Great.
17 And so just to clarify, during that
18 time you were not working on master account
19 requests. Is that right?

20 A No, I was not working on master
21 account --

22 Q Okay. You were working on --

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1 A Uh-huh.

2 Q -- I think you just told me you dealt
3 with a few different umbrellas. So banks that
4 dealt with novel issues, banks that were policy
5 setting --

6 A Complex.

7 Q -- complex. Were these under the
8 mergers and acquisitions umbrella or were they also
9 membership applications?

10 What -- what -- what were you -- what
11 did you typically look at?

12 So complex mergers and acquisitions
13 or complex membership applications or both?

14 A Any of those. So there's probably --
15 so let me back up.

16 The mergers and acquisitions section
17 is a gatekeeping function --

18 Q I see.

19 A -- at the Federal Reserve.

20 Q Okay.

21 A And there are 40 -- probably 40
22 different types of proposals that financial

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1 institutions can file with the Federal Reserve.
2 And so could it be a holding company for -- I'll
3 give you an example. Holding company formations,
4 holding company mergers, bank mergers, state
5 memberships. Change in controls. It goes on and
6 on, but there's probably -- maybe 40 different
7 types of proposals that come into the Federal
8 Reserve System.

9 Q I see.

10 A And once they -- they first come into
11 the reserve bank --

12 Q Okay.

13 A -- it's up to the reserve bank to
14 identify the issues with a proposal.

15 And then someone like Jackie at the
16 reserve bank will call a manager, like me, at the
17 Board, because I'm her -- she's in my portfolio --

18 Q Gotcha.

19 A -- and say, "This proposal has this
20 issue" --

21 Q Gotcha.

22 A -- "does it need to come to the

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1 Board?"

2 Q Gotcha.

3 A I, as the manager, decide yes, it
4 needs to come up or no, the reserve bank has
5 delegated authority to -- to deal with that --

6 Q I see.

7 A -- proposal.

8 Q Okay. So -- and when you say
9 "delegated authority," so that to me suggests that
10 this is something like a membership context, right,
11 where the reserve bank is working in a delegated
12 capacity?

13 A It -- it can.

14 Q Okay. Did it ever deal with master
15 accounts during your time at the Board?

16 A Yes, I've dealt with master account
17 proposals that would come to the Board. Now,
18 typically, I would get involved with a master
19 account proposal if there's a companion proposal
20 with it.

21 Q What do you mean by that?

22 A So the -- the de novo bank that's --

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1 that's being formed, it may have a parent company
2 over it that needs to be recognized as a bank
3 holding company.

4 Q I see.

5 A My section is going to handle the
6 parent company formation to be a bank holding
7 company. You have to be approved to be a bank
8 holding company in this country --

9 Q I see.

10 A -- or -- and/or that bank may want to
11 have state membership, be a state member bank, be a
12 federal -- have the Federal Reserve as their
13 primary regulator, not the FDIC or the OCC. The
14 OCC regulates national banks, and the Fed and the
15 FDIC, one of us would regulate a state-chartered
16 bank. Okay?

17 Q Okay.

18 A Now, if -- if there -- if this master
19 account proposal has a state membership proposal or
20 a -- this is typical, there could be other ways, or
21 a bank holding company formation, then there would
22 be two proposals coming through the system at the

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1 same time.

2 Q Okay.

3 A And my section would manage those two
4 proposals at the same time.

5 Q Okay.

6 A So -- so that's how you end up --
7 that's how I've ended up working on master account
8 proposals.

9 Q So when you say you manage those two
10 proposals, with respect to master accounts -- the
11 master account request, what would you do?

12 A Okay. So any proposal that comes
13 into the Federal Reserve, there's statutory factors
14 that are applied for each type of proposal. Okay?
15 So -- and it's up to the -- usually, it's the
16 financial -- the analyst who's assigned to it. I
17 was an analyst for ten years --

18 Q Uh-huh.

19 A -- and then I became a manager. So I
20 may be the analyst handling it. And the analyst in
21 the mergers and acquisitions section is responsible
22 for developing the briefing documents that you may

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1 Would they conduct risk assessments?

2 A I don't know. They could. I -- I
3 don't know.

4 Q Okay. And did -- would they
5 provide -- would they do their own analysis? Would
6 they provide analysis to you?

7 Do you know what they were doing on a
8 master account request if you were looking at two
9 types of requests at the same time?

10 A I don't know what they were doing.

11 Q Gotcha.

12 And would you see -- so you would
13 see -- I think you testified, if you saw a master
14 account request, you tended to see them in tandem
15 with some other requests. Is that right?

16 A Right, that is when I would be pulled
17 in.

18 Q Okay. Great.

19 A Okay.

20 Q Would you ever see master account
21 requests absent something else?

22 A In my section, no.

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1 Q Okay. Okay. Great.

2 So -- okay. So this is very helpful.
3 We were actually talking about your background, but
4 that was -- that was useful information to help me
5 orient what you've been working on.

6 How many de novo institutions did you
7 see while you were at the Board of Governors?

8 A I -- I don't know the number. I was
9 there --

10 Q Yeah.

11 A -- 20 years. I don't -- I don't
12 really know.

13 Q Was it many?

14 A I don't know the number, to tell you
15 the truth.

16 Q Okay. So I -- I believe Caitlin
17 testified that there were none between, for
18 example, 2008 and -- 2008 and 2018. So would you
19 say it was an uncommon occurrence to see a de novo
20 bank?

21 A I don't -- I don't think I'd say it
22 was uncommon. I mean, we did see them, and

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1 that's -- what dates did she provide?

2 Q She said 2008 to 2018, there weren't
3 any.

4 A No, that's not true.

5 Q Okay. There would be? You think so?

6 A Yeah, I can give you an example --

7 Q Sure.

8 A -- of a de novo. There's a couple
9 that I worked on that had a master account.
10 They're very similar to -- it had some similar
11 characteristics, like [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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1 Q Yeah, yeah, I gotcha.

2 A -- it's rotating. But those are, you
3 know, the ones that -- it's the vice chair of
4 Supervision, plus two other governors were put on
5 that committee. So there's three of them --

6 Q I gotcha.

7 A -- and it's rotating.

8 Q Okay. And would you brief the
9 committee directly?

10 A Yes.

11 Q Okay. How often would you do
12 something like that?

13 A Probably three, four times a year.

14 Q Okay. And would it be --

15 A In twenty years, I have done it a
16 lot.

17 Q Gotcha.

18 And would it be you alone? Would it
19 be you with your team? How would that tend to
20 work?

21 A So -- oh, no. The room is packed.
22 The room is packed.

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1 Q But who's standing at that podium?

2 Just you?

3 A It's just me. Okay? It's either
4 the -- it's either the senior analyst or the
5 manager. The officers don't do the briefings, for
6 the most part, it's either the manager or the
7 senior analyst because they're the closest to the
8 proposal.

9 Q I see. Okay.

10 So a manager is, I think -- if I'm
11 counting this correctly, a manager is -- one, two,
12 three, four -- is five layers removed from the
13 governors. Is that right? Or is it four or five?

14 A Maybe -- there's three people in
15 between me and the governor.

16 Q Okay. Okay. Yeah, I -- math is not
17 my strong suit, that's why I'm a lawyer.

18 A There's three people between me and
19 the governor.

20 Q I see, yes. So it's you, and then
21 there's the assistant division director, the senior
22 director, the division director of Supervision.

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1 And then they would report to the vice chair of
2 Supervision.

3 A Uh-huh.

4 Q Did I get that right?

5 A That's correct.

6 Q Okay. So how -- how would
7 information from the Board of Governors be shared
8 down to you?

9 So if there's a policy determination,
10 would that come down the chain of command?

11 Would you interact directly with a
12 governor?

13 How would that communication
14 typically work?

15 A So the way it works is staff develops
16 the policy.

17 Q And when you say "policy," can you
18 give me sort of an example of what you mean?

19 A Well, there's all types of policies.
20 It might be like an S Letter -- in our division
21 it's called SR Letters, for Supervision and
22 Regulation.

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1 Q Okay.

2 A So there might be a policy coming out
3 that's developed through -- to the public. It's an
4 SR Letter, it's public guidance.

5 Q Gotcha.

6 A I've worked on or been a key author
7 for like three of those.

8 Q I see. Okay.

9 A Or it might be -- another section
10 might be doing capital guidelines, "Here are the
11 capital guidelines. You know, we want to make
12 changes to the capital guidelines, and this is how
13 it's going to impact the banks."

14 And so you create briefing memos for
15 the governors that outline the policy, the impact,
16 the pros and cons of it, and a recommendation.

17 Q Okay.

18 A And then you go -- the staff goes and
19 meets with the governors and they say, "This is the
20 policy we want to promulgate."

21 Q Okay.

22 A "Give us your feedback. Do you like

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1 this policy? You don't like it? Or can we move
2 forward with our recommendation?"

3 And then they give the green light or
4 they might give the green light with some tweaks.
5 And then staff goes back and makes the changes.

6 Q Will they give it to you directly or
7 will they give it to the division director and the
8 division director then --

9 A No. It's one big meeting. All of us
10 are in this --

11 Q Okay. I see.

12 A -- big meeting and they tell you
13 directly they don't like --

14 Q "Here's what we're thinking"?

15 A Yes.

16 Q I got it.

17 A And they're given the memo well ahead
18 so they have a chance to think about it.

19 Q I see. Okay.

20 So would you ever have informal
21 meetings with any of the Board of Governors?

22 These sound more formal. Is that

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1 fair to say?

2 A It's informal.

3 Q Would you have more informal meetings
4 with the Board of Governors?

5 A Would I have more or less?

6 Q Any -- I'm sorry.

7 Would you have informal meetings with
8 the Board of Governors, individual Board of
9 Governors?

10 A On -- on occasion. On occasion.

11 Q What would prompt such an occasion?

12 A Sometimes a governor just wants to
13 meet with -- with two people that he or she thinks
14 are the most knowledgeable and not have a big
15 audience around them.

16 Q I gotcha.

17 A So I have been -- I've done a couple
18 of those.

19 Q Okay. Great.

20 So you mentioned that you worked on
21 SR Letters. Can you kind of just give me an
22 overview of what a SR Letter is?

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1 at the reserve banks. Is that right?

2 A So typically, yes.

3 Q Okay. And would you know what the
4 typical process was for handling a master account
5 request?

6 MS. WEINBERGER: Object to form.

■

■

■

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■

■

13 BY MS. CARLETTA:

14 Q So I'm sorry, let me back --

15 A Uh-huh.

16 Q -- let me back up for a second.

■

■

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■

[illegible]

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1 Who from the Board of Governors would
2 typically be in communication with reserve banks
3 about master account requests?

4 Would that be Board Legal?

5 A Well, when I was involved in master
6 account proposals, it was typically an eligibility
7 issue, and Board Legal would be the one leading the
8 determination on that particular statutory factor.

9 Q Were you engaged in routine
10 conversations with any of the reserve banks about
11 master account requests?

12 A Not unless there was a proposal in
13 hand, you know, that we were working -- a companion
14 proposal.

15 Q Okay.

16 MS. CARLETTA: You know, I think
17 we've been going for about an hour. Do you want to
18 take a break for a minute?

19 (Recess from 9:32 a.m. to 9:45 a.m.)

20 BY MS. CARLETTA:

21 Q Okay. So I just want to follow up on
22 a couple of questions on our conversation before.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q Okay. Did you work on Fourth Corner?

10 A No, I did not.

11 Q The Reserve Trust Company?

12 A No, I didn't work on that.

13 Q Narrow Bank, The Narrow Bank?

14 A No, I didn't work on that.

15 Q So when an applicant would bring both
16 a membership and a master account request at the
17 same time, that's when you would review master
18 account requests?

19 A Right. There would be a companion
20 proposal --

21 Q Okay.

22 A -- with the master account request.

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1 month.

2 Q And if you go over the retainer, do
3 they -- is that for a set -- strike that.

4 Is that for a set number of hours?

5 A No, that's a flat fee.

6 Q It's a flat fee. Okay.

7 So you -- are you still on a
8 retainer?

9 A Yes, I am.

10 Q Okay. So you've been receiving
11 \$2,500 a month since you were retained in May 2020?

12 A That's correct.

13 Q Okay. And you also received stock
14 options in Custodia?

15 A That's correct.

16 Q Can you tell me more about your stock
17 options?

18 A So for the first 25 months, I
19 received 1,000 stock options that were Class 2
20 non-voting. So if I were to exercise them, I would
21 get one share of Class 2 non-voting. And when I
22 looked at the capital table, that -- that -- those

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1 shares are less than like 5 percent of all
2 outstanding shares.

3 Q Okay. Do you know what they're
4 valued at at this time?

5 A No, I don't.

6 Q Okay. Do you have an any idea,
7 ballpark?

8 A I have no idea what Custodia -- yeah,
9 they're a subordinate share of -- subordinate class
10 and they're non-voting and they're a very small
11 percentage of the overall shares, and they're not
12 publicly traded. So it's really impossible for me
13 to assign a value to those.

14 Q So when you spoke with Wyoming about
15 this SPDI charter, had the -- the SPDI legislation
16 had been passed by that time, correct?

17 A I believe that was passed in 2019,
18 yes.

19 Q And were you involved in the passage
20 of the SPDI statute at all?

21 A No, I was not.

22 Q Okay. Did you have discussions with

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1 A Typically, yes.

2 Q Okay. And so you -- if a Board takes
3 a master account request, in your view, they would
4 issue the decision on a master account request?

5 MS. WEINBERGER: Object to form.

6 THE WITNESS: So that's up to the
7 legal division to decide whether the Board is going
8 to act on the proposal or whether the reserve bank
9 is going to act on the --

10 BY MS. CARLETTA:

11 Q Do you understand what the source of
12 the authority would be for the Board to act on a
13 master account request?

14 MS. WEINBERGER: Object to form.

15 Calls for a legal conclusion.

16 THE WITNESS: Yeah, that -- again, it
17 would be the legal division's determination.

18 BY MS. CARLETTA:

19 Q Okay. So you -- you don't know?

20 A I -- all I -- no. I know what the
21 statutory factor is, but whether the proposal is
22 acted on by the Board or the reserve bank would be

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1 other than legal eligibility?

2 MS. WEINBERGER: Object to form.

3 THE WITNESS: That's all the Fed's
4 supposed to review for a master account.

5 BY MS. CARLETTA:

6 Q Okay. And what's the basis for your
7 understanding of -- what's the basis for your
8 opinion?

9 A Well, like I said, we go -- we always
10 go back to the whatever the act is that gives the
11 Fed the authority to do something. And it's the
12 Monetary Control Act of 1980.

13 Q What about the Federal Reserve Act?

14 A What about it? It's huge.

15 Q Do you know the --

16 A Right, it's huge. I don't know.

17 Q Does the Federal Reserve Act give
18 powers to the Federal Reserve banks and the -- and
19 the Board of Governors?

20 MS. WEINBERGER: Object to form.

21 Calls for a legal conclusion.

22 THE WITNESS: Yeah, I mean, I

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1 don't -- you would have to ask an attorney about
2 that and not me.

3 BY MS. CARLETTA:

4 Q Okay. So why are you pointing to the
5 Monetary Control Act?

6 A Well --

7 Q Is that something that you heard from
8 counsel?

9 A No.

10 MS. WEINBERGER: Object to form.

11 THE WITNESS: No. There's -- there's
12 probably, I would say, seven major banking acts
13 that you know about if you work for the Federal
14 Reserve, and that's one of them.

15 BY MS. CARLETTA:

16 Q And the Federal Reserve Act is
17 another?

18 A And the Federal Reserve Act -- you
19 are aware of certain pieces of certain acts that
20 apply to what your job is.

21 Q Okay. So do you understand what
22 the -- strike that.

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1 Q But that's when it's a delegated
2 function. Is that right?

3 A It --

4 MS. WEINBERGER: Object to form.

5 THE WITNESS: It's when the reserve
6 bank has -- has a proposal that Board staff has
7 said, "Okay. Now you can act on it."

8 BY MS. CARLETTA:

9 Q Okay. But delegated functions are
10 defined by regulation. Is that right?

11 MS. WEINBERGER: Object to form. And
12 calls for a legal conclusion.

13 THE WITNESS: So delegated functions,
14 I'll say typically -- but I'm not a lawyer. That's
15 the legal division's determination what's delegated
16 and what's not.

17 BY MS. CARLETTA:

18 Q So you don't know whether or not this
19 statement is accurate?

20 MS. WEINBERGER: Object to form.

21 Misstates testimony.

22 THE WITNESS: I'm just repeating what

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

CUSTODIA BANK, INC., :
:
Plaintiff, :
:
vs. : Case No.:
:
1:22-cv-00125-SWS
FEDERAL RESERVE BOARD OF :
GOVERNORS, :
:
AND :
:
FEDERAL RESERVE BANK OF :
KANSAS CITY, :
:
Defendants. :

"CONFIDENTIAL" DEPOSITION OF KATIE S. COX
Volume 2 of 2

DATE: December 20, 2023
TIME: 8:42 a.m. to 3:33 p.m.
LOCATION: King & Spalding, LLP
1700 Pennsylvania Ave, NW
Suite 900
Washington, DC 20006

REPORTED BY: Felicia A. Newland, CSR

Veritext Legal Solutions
1250 Eye Street, N.W., Suite 350
Washington, D.C. 20005

1 Q Okay.

2 MS. CARLETTA: I think I've seen one,
3 Lauren. Is that the only --

4 THE WITNESS: And that's the only
5 one --

6 MS. WEINBERGER: Yes.

7 MS. CARLETTA: Okay.

8 THE WITNESS: -- that's out there.

9 BY MS. CARLETTA:

10 Q Okay. And then when you submit
11 others, we would request a copy of those.

12 Okay. So we touched on your
13 retainer. You also have stock options. Is that
14 correct?

15 A Yes, I do have stock options.

16 Q And what are the -- can you tell me
17 about those stock options again?

18 A Yes. So the way the stock options
19 initially worked, for the first 25 months, I would
20 receive 1,000 stock options, exercisable at \$1.04.
21 These shares are Class 2, non-voting shares. Then
22 after the first 25 months, the stock option

1 program, whatever you want to call it, changed.

2 I want to say it's like 350 shares
3 per quarter, or something like that, like 1,500 --
4 1,500 stock options a year, exercisable at, I
5 think, it's \$8.33, or something like that.
6 Somewhere around \$8.

7 Q So when you say exercisable at a
8 certain amount, do you mean that it won't fluctuate
9 with the value of Custodia over time?

10 MS. WEINBERGER: Object to form.

11 THE WITNESS: So it means if I want
12 to purchase -- exercise my stock options, I have to
13 pay \$1.04 for the -- for the first 25,000 --
14 BY MS. CARLETTA:

15 Q Uh-huh.

16 A -- and then any shares after that, I
17 have to pay \$8 a share --

18 Q I see. I see.

19 A -- to -- to exercise those stock
20 options.

21 Q Okay. And would it be fair to say
22 that the value of your stock options depends on the

1 outcome of this litigation?

2 MS. WEINBERGER: Object to form.

3 THE WITNESS: So I have no idea what
4 these shares are worth for a couple reasons. The
5 shares aren't publicly traded.

6 BY MS. CARLETTA:

7 Q Uh-huh.

8 A These are what I would call an
9 inferior class of shares. It's Class 2,
10 non-voting. Only -- right now if everyone had
11 exercised their options, only -- it would only
12 represent like 5 percent of all common stock within
13 Custodia's common stock, you know, balance. And so
14 I have no idea what they're worth.

15 And also, my shares were -- the
16 exercise price is based on what the price of the
17 shares were worth for the voting common at the
18 time.

19 Q At the time of what?

20 A At the time that the -- of the first
21 stock issuance that -- because the overall issuance
22 that Custodia had. So the first stock option --

1 the first sale of shares, I believe, they sold them
2 for a dollar a share, and then the second batch of
3 capital raise are like \$8, but my shares are not --
4 they don't have the same characteristics.

5 Q Okay. But stock can appreciate in
6 value over time, is that right, if the business
7 does well?

8 MS. WEINBERGER: Object to form.

9 THE WITNESS: So the issue for
10 Custodia is the last batch of shares were issued in
11 August of 2022. And A lot of things have happened
12 in the cryptocurrency markets, Bitcoin crashed, FTX
13 failed. So it's really difficult to price these
14 shares. So I don't know what they -- what they're
15 worth now and what they'll be worth in the future.
16 BY MS. CARLETTA:

17 Q I understand that. But as a general
18 proposition, stock value can increase as the
19 business does -- if a -- as a business -- strike
20 that.

21 If a business does well, their stock
22 option -- their stock value can increase. Is that

1 A I don't know what they did after --
2 because, like I said, I'm the -- I've always for
3 the past -- for my last 20 years, I was in the
4 gatekeeping function. And once you get through the
5 gate and you're in the Federal Reserve system or
6 you're approved to get Federal Reserve services,
7 other divisions and other areas of the Federal
8 Reserve take over.

9 Q Okay. On page 5 of your report, you
10 say you were a, quote, key driver in the
11 development of bank M&A policies.

12 A That's correct.

13 Q What did you mean by "key driver"?

14 A So during my tenure at the Board, we
15 do things at the Board, like develop systemwide
16 guidance. Some of it is public and some of it is
17 internal. I have been the key author -- and it's
18 on my resume and on my LinkedIn page -- of at least
19 three prominent SR Letters related to mergers and
20 acquisitions.

21 I also was the -- I provided the
22 Fed's leadership in revising numerous application

1 forms that either the -- were only for the Federal
2 Reserve, like bank holding company applications, or
3 their interagency forms for like the change in the
4 Bank Control Act, the -- what we call an IBFR, so
5 it's a biographical and -- an individual
6 biographical and financial report that anyone who's
7 going to be a key individual in an organization has
8 to file with their respective federal regulator.

9 I worked on a large initiative to
10 reduce burden on -- regulatory burden on community
11 banks. I was one of the key presenters for
12 proposals that were novel or complex or policy
13 setting for the governors of the Federal Reserve,
14 and if necessary to the entire Board for the Board
15 to vote on the proposal.

16 Q And so SR Letters are public
17 documents. Is that right?

18 A Those are public.

19 Q Okay. And they're different than S
20 letters?

21 A Yeah. I don't -- I don't -- you
22 don't -- in our division, we didn't see a lot of S

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

5 BY MS. CARLETTA:

6 Q Okay. So when you said yesterday
7 that matters of policy are decided exclusively by
8 the Board, what did you mean by "matters of
9 policy"?

10 MS. WEINBERGER: Object to form.

11 THE WITNESS: So only the Board can
12 make policy. That's what I'm stating.

13 BY MS. CARLETTA:

14 Q Okay. So I'm just trying to
15 understand the logic of your opinion. You
16 testified that the -- there's only one statutory
17 factor to consider when determining a master
18 account request. Is that correct?

19 A Uh-huh. That's correct.

20 Q The Board determines that statutory
21 factor. Is that correct?

22 A The Board Legal interprets that

1 statutory factor, uh-huh.

2 Q Okay. And this was a -- then the
3 master account request was a Board of Governors'
4 decision based on your testimony. Is that correct?

5 A That's how it turned out.

6 Q And it was a policy decision that the
7 Board of Governors made. Is that correct?

8 A Yes. So -- yes, it created -- so the
9 Board basically created new policies as to how to
10 review master account proposals from novel
11 institutions.

12 Q Why would it issue policies -- why
13 would it adopt these policies and guidelines if
14 there's only one statutory factor?

15 A Well, that's the whole crux of this
16 lawsuit.

17 Q So --

18 A They didn't have the authority --
19 they didn't have the authority to do that.

20 Q So it's --

21 A I mean --

22 Q -- your expert opinion that the Board

1 didn't have the authority to issue the guidelines
2 or the S Letter or the implementation handbook?

3 MS. WEINBERGER: Object to form.
4 Mischaracterizes testimony.

5 THE WITNESS: So what I'm stating is
6 the Board stepped in -- really into the shoes of
7 the chartering authority. And the chartering
8 authority should be doing that type of work that's
9 explained in the guidelines.

10 BY MS. CARLETTA:

11 Q By the chartering authority, do you
12 mean the state chartering authority?

13 A Yeah, the state chartering authority.
14 Or it could be a national. You know, it could be
15 the OCC. There's really three types of chartering
16 authorities we have in -- in this country; it's the
17 states, the territories, and the Office of the
18 Comptroller, the currency that does national bank
19 charters.

20 So the chartering authority should be
21 doing it. That's their job to do that. And the
22 Fed stepped into the chartering -- basically

1 stepped into the chartering authority's shoes and
2 started doing their work.

3 Q So your expert opinion is that the
4 Board of Governors should not have -- has no legal
5 authority to issue the guidelines or the handbook
6 or the S Letter?

7 MS. WEINBERGER: Object to form.
8 Calls for a legal conclusion.

9 THE WITNESS: So what I'm saying is
10 that, like I've said before, the Fed just has one
11 job here for a master account, and that's the legal
12 eligibility determination. That's -- that's their
13 only job that congress has authorized them to do.
14 BY MS. CARLETTA:

15 Q Based on your review of the
16 Monetary --

17 A Based on my understanding of the
18 Monetary Control Act.

19 Q So why -- then why did they issue the
20 guidelines, the implementation handbook, and the S
21 Letter?

22 MS. WEINBERGER: Object to form.